



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4089

Introduced 1/15/2004, by Timothy L. Schmitz

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-3	from Ch. 38, par. 24-3
720 ILCS 5/37-1	from Ch. 38, par. 37-1

Amends the Criminal Code of 1961. Provides that the Department of State Police shall publish a list of handguns having a barrel, slide, frame or receiver that is a die casting of zinc alloy or any other nonhomogeneous metal which will melt or deform at a temperature of less than 800 degrees Fahrenheit. Provides that a building used for the unlawful sale of firearms may be abated as a public nuisance only if the person using the building for the unlawful sale has been convicted of the offense and the Department of State Police has published the list of prohibited firearms. Effective immediately.

LRB093 16539 RLC 42183 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT in relation to criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing
5 Sections 24-3 and 37-1 as follows:

6 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

7 Sec. 24-3. Unlawful Sale of Firearms.

8 (A) A person commits the offense of unlawful sale of
9 firearms when he or she knowingly does any of the following:

10 (a) Sells or gives any firearm of a size which may be
11 concealed upon the person to any person under 18 years of
12 age.

13 (b) Sells or gives any firearm to a person under 21
14 years of age who has been convicted of a misdemeanor other
15 than a traffic offense or adjudged delinquent.

16 (c) Sells or gives any firearm to any narcotic addict.

17 (d) Sells or gives any firearm to any person who has
18 been convicted of a felony under the laws of this or any
19 other jurisdiction.

20 (e) Sells or gives any firearm to any person who has
21 been a patient in a mental hospital within the past 5
22 years.

23 (f) Sells or gives any firearms to any person who is
24 mentally retarded.

25 (g) Delivers any firearm of a size which may be
26 concealed upon the person, incidental to a sale, without
27 withholding delivery of such firearm for at least 72 hours
28 after application for its purchase has been made, or
29 delivers any rifle, shotgun or other long gun, incidental
30 to a sale, without withholding delivery of such rifle,
31 shotgun or other long gun for at least 24 hours after
32 application for its purchase has been made. However, this

1 paragraph (g) does not apply to: (1) the sale of a firearm
2 to a law enforcement officer or a person who desires to
3 purchase a firearm for use in promoting the public interest
4 incident to his or her employment as a bank guard, armed
5 truck guard, or other similar employment; (2) a mail order
6 sale of a firearm to a nonresident of Illinois under which
7 the firearm is mailed to a point outside the boundaries of
8 Illinois; (3) the sale of a firearm to a nonresident of
9 Illinois while at a firearm showing or display recognized
10 by the Illinois Department of State Police; or (4) the sale
11 of a firearm to a dealer licensed as a federal firearms
12 dealer under Section 923 of the federal Gun Control Act of
13 1968 (18 U.S.C. 923).

14 (h) While holding any license as a dealer, importer,
15 manufacturer or pawnbroker under the federal Gun Control
16 Act of 1968, manufactures, sells or delivers to any
17 unlicensed person a handgun having a barrel, slide, frame
18 or receiver which is a die casting of zinc alloy or any
19 other nonhomogeneous metal which will melt or deform at a
20 temperature of less than 800 degrees Fahrenheit. The
21 Department of State Police shall publish a list of firearms
22 prohibited under this paragraph (h) at least annually for
23 each federal firearms dealer required to participate in
24 Section 3.1 of the Firearm Owners Identification Card Act.

25 For purposes of this paragraph, (1) "firearm" is defined as
26 in the Firearm Owners Identification Card Act; and (2)
27 "handgun" is defined as a firearm designed to be held and
28 fired by the use of a single hand, and includes a
29 combination of parts from which such a firearm can be
30 assembled.

31 (i) Sells or gives a firearm of any size to any person
32 under 18 years of age who does not possess a valid Firearm
33 Owner's Identification Card.

34 (j) Sells or gives a firearm while engaged in the
35 business of selling firearms at wholesale or retail without
36 being licensed as a federal firearms dealer under Section

1 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).
2 In this paragraph (j):

3 A person "engaged in the business" means a person who
4 devotes time, attention, and labor to engaging in the
5 activity as a regular course of trade or business with the
6 principal objective of livelihood and profit, but does not
7 include a person who makes occasional repairs of firearms
8 or who occasionally fits special barrels, stocks, or
9 trigger mechanisms to firearms.

10 "With the principal objective of livelihood and
11 profit" means that the intent underlying the sale or
12 disposition of firearms is predominantly one of obtaining
13 livelihood and pecuniary gain, as opposed to other intents,
14 such as improving or liquidating a personal firearms
15 collection; however, proof of profit shall not be required
16 as to a person who engages in the regular and repetitive
17 purchase and disposition of firearms for criminal purposes
18 or terrorism.

19 (B) Paragraph (h) of subsection (A) does not include
20 firearms sold within 6 months after enactment of Public Act
21 78-355 (approved August 21, 1973, effective October 1, 1973),
22 nor is any firearm legally owned or possessed by any citizen or
23 purchased by any citizen within 6 months after the enactment of
24 Public Act 78-355 subject to confiscation or seizure under the
25 provisions of that Public Act. Nothing in Public Act 78-355
26 shall be construed to prohibit the gift or trade of any firearm
27 if that firearm was legally held or acquired within 6 months
28 after the enactment of that Public Act.

29 (C) Sentence.

30 (1) Any person convicted of unlawful sale of firearms
31 in violation of any of paragraphs (c) through (h) of
32 subsection (A) commits a Class 4 felony.

33 (2) Any person convicted of unlawful sale of firearms
34 in violation of paragraph (b) or (i) of subsection (A)
35 commits a Class 3 felony.

36 (3) Any person convicted of unlawful sale of firearms

1 in violation of paragraph (a) of subsection (A) commits a
2 Class 2 felony.

3 (4) Any person convicted of unlawful sale of firearms
4 in violation of paragraph (a), (b), or (i) of subsection
5 (A) in any school, on the real property comprising a
6 school, within 1,000 feet of the real property comprising a
7 school, at a school related activity, or on or within 1,000
8 feet of any conveyance owned, leased, or contracted by a
9 school or school district to transport students to or from
10 school or a school related activity, regardless of the time
11 of day or time of year at which the offense was committed,
12 commits a Class 1 felony. Any person convicted of a second
13 or subsequent violation of unlawful sale of firearms in
14 violation of paragraph (a), (b), or (i) of subsection (A)
15 in any school, on the real property comprising a school,
16 within 1,000 feet of the real property comprising a school,
17 at a school related activity, or on or within 1,000 feet of
18 any conveyance owned, leased, or contracted by a school or
19 school district to transport students to or from school or
20 a school related activity, regardless of the time of day or
21 time of year at which the offense was committed, commits a
22 Class 1 felony for which the sentence shall be a term of
23 imprisonment of no less than 5 years and no more than 15
24 years.

25 (5) Any person convicted of unlawful sale of firearms
26 in violation of paragraph (a) or (i) of subsection (A) in
27 residential property owned, operated, or managed by a
28 public housing agency or leased by a public housing agency
29 as part of a scattered site or mixed-income development, in
30 a public park, in a courthouse, on residential property
31 owned, operated, or managed by a public housing agency or
32 leased by a public housing agency as part of a scattered
33 site or mixed-income development, on the real property
34 comprising any public park, on the real property comprising
35 any courthouse, or on any public way within 1,000 feet of
36 the real property comprising any public park, courthouse,

1 or residential property owned, operated, or managed by a
2 public housing agency or leased by a public housing agency
3 as part of a scattered site or mixed-income development
4 commits a Class 2 felony.

5 (6) Any person convicted of unlawful sale of firearms
6 in violation of paragraph (j) of subsection (A) commits a
7 Class A misdemeanor. A second or subsequent violation is a
8 Class 4 felony.

9 (D) For purposes of this Section:

10 "School" means a public or private elementary or secondary
11 school, community college, college, or university.

12 "School related activity" means any sporting, social,
13 academic, or other activity for which students' attendance or
14 participation is sponsored, organized, or funded in whole or in
15 part by a school or school district.

16 (Source: P.A. 93-162, eff. 7-10-03.)

17 (720 ILCS 5/37-1) (from Ch. 38, par. 37-1)

18 Sec. 37-1. Maintaining Public Nuisance. Any building used
19 in the commission of offenses prohibited by Sections 9-1, 10-1,
20 10-2, 11-14, 11-15, 11-16, 11-17, 11-20, 11-20.1, 11-21, 11-22,
21 12-5.1, 16-1, 20-2, 23-1, 23-1(a)(1), 24-1(a)(7), 24-3, 28-1,
22 28-3, 31-5 or 39A-1 of the Criminal Code of 1961, or prohibited
23 by the Illinois Controlled Substances Act, or the Cannabis
24 Control Act, or used in the commission of an inchoate offense
25 relative to any of the aforesaid principal offenses, or any
26 real property erected, established, maintained, owned, leased,
27 or used by a streetgang for the purpose of conducting
28 streetgang related activity as defined in Section 10 of the
29 Illinois Streetgang Terrorism Omnibus Prevention Act is a
30 public nuisance.

31 (a-5) A building used in the commission of an offense
32 prohibited by Section 24-3 of this Code may be abated as a
33 public nuisance only if the person using the building for the
34 commission of the offense has been convicted of a violation of
35 Section 24-3 and the building was used in the commission of a

1 violation of paragraph (h) of subsection (A) of Section 24-3. A
2 building may be abated as a public nuisance under this
3 subsection (a-5) only if the Department of State Police has
4 published a list of firearms prohibited under that paragraph.

5 (b) Sentence. A person convicted of knowingly maintaining
6 such a public nuisance commits a Class A misdemeanor. Each
7 subsequent offense under this Section is a Class 4 felony.

8 (Source: P.A. 91-876, eff. 1-1-01.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.